IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.497 OF 2006

Sanjay Narayan Gangurde ...Applicant.

V/s

The State of Maharashtra
(through officer-in-charge
Padgha Police Station,
District - Thane) ...Respondent.

Mr. J.B. Kocheta for the applicant.

Ms. M.M. Deshmukh, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 22nd February 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with the offence punishable under section 302 and 201 of the Indian Penal Code and section 3(25) of the Arms Act. It is alleged that the applicant killed the deceased as he had an illicit relations with the wife of the deceased and the motive was to eliminate the deceased since he was taking objection to the extra marital affair between the applicant and the wife of the deceased.

3. The learned Counsel for the applicant submitted that the post-mortem notes indicate that the age of the gun shot injury was 24 hours old. He submitted that the prosecution case is that the incident had occurred on 2/7/2005 at about 11.00 p.m. whereas the post-mortem was performed on 5/7/2005 at 11.00 a.m. He submitted that the only evidence against the applicant was in the form of statements of witnesses who had last seen the applicant and the deceased in a hotel. He submitted that the recovery at the instance of the applicant also was doubtful as the revolver which was alleged to have been recovered at the instance of the applicant was kept in an open place.

4. The learned APP, on the other hand, invited my attention to the blood-stained seat covers shown by the applicant. She submitted that C.A. report of the said blood-stained seat covers was awaited. She submitted that 4 to 5 witnesses had last seen the applicant with the deceased at about 11 to 11.30 p.m. and, thereafter, the dead body of the deceased was found. The wife of the deceased also has stated that she had an illicit affair with the applicant hereinabove.

5. Considering this evidence on record, I am of the view that this is not a fit case for grant of bail. The application for bail is rejected. However, liberty is granted to the applicant to apply again after six months if the trial is not over by that time. The applicant may apply for bail if the C.A. report is in favour of the applicant.

6. Application is accordingly disposed of.

V.M. KANADE, J.